



SANCTIONED.

JURISDICTION OF CIVIL AND RELIGIOUS COURTS ORDINANCE No. 3 OF 1925.

Herbert Samuel

GOVERNMENT OF PALESTINE.

JURISDICTION OF CIVIL and RELIGIOUS COURTS ORDINANCE

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**AN ORDINANCE TO DEFINE MORE EXACTLY THE
JURISDICTION OF THE CIVIL AND RELIGIOUS
COURTS WITH REGARD TO QUESTIONS OF
WAKF AND TO APPLICATIONS FOR DIYET.**

BE IT ENACTED by the High Commissioner for Palestine
with the advice of the Advisory Council thereof :

Citation.

1. This Ordinance may be cited as the Jurisdiction of Civil and Religious Courts Ordinance 1925.

Conversion of non-Moslem Wakfs created before Moslem Religious Court into charitable trusts on application of authorised persons within one year of commencement of Ordinance.

2. Where a non-Moslem Wakf has been constituted before a Moslem Religious Court prior to the promulgation of the Palestine Order in Council, 1922, the dedicator of such a Wakf, or, if the dedicator is dead, the guardian of the Wakf, or, in case there is more than one, a majority of the guardians of the Wakf nominated in the Wakf Deed may, within one year of the date of the commencement of this Ordinance, apply to the Civil Court for an Order to transform the Wakf into a trust under the provisions of the Charitable Trusts Ordinance, 1924; and the Court may thereupon declare that the property shall be held in trust in accordance with the provisions of the said Ordinance as though the charitable endowment had been created in accordance therewith.

Jurisdiction with regard to constitution of non-Moslem Wakfs created before Moslem Religious Court

3. In default of such an application, or where such an application has been refused by the Civil Court,

(a) An action or other proceeding concerning the constitution or validity of such a Wakf shall be brought before the Civil Court, unless all the parties concerned shall agree to submit the question at issue to the Moslem Religious Court. It shall be competent to the parties to such an action or other proceeding in a Civil Court to obtain by agreement a stay of proceedings in the said Court at any time before judgment for the purpose of removing such action or other proceeding into a Religious Court and bring such action or other proceeding anew in the Religious Court.

Jurisdiction with regard to administration of such Wakfs.

(b) An action or other proceeding concerning the administration of such a Wakf shall be brought before the Court of the Religious Community of which the dedicator of the Wakf was a member. If the dedicator did not belong to

a Religious Community, or if there is no established Court of the Community, the action or proceeding shall be brought before the Civil Court, which shall apply the general principles of equity.

Reference to
Special Tribunal
of conflicts of
jurisdiction
about Wakf.

4. When conflict arises between a Civil and a Religious Court upon a question whether a matter is one of Wakf within the exclusive jurisdiction of a Religious Court, the matter shall be referred to the Special Tribunal referred to in Article 55 of the Palestine Order in Council 1922.

Actions of owner-
ship or posses-
sion of immo-
vable property
to be tried by
Civil Court.

5. Every action or other proceeding concerning the ownership or possession of immovable property shall be decided by a Civil Court notwithstanding any claim by any party or person that the land is Wakf.

Jurisdiction in
cases of Diyet.

6. The Moslem Religious Court shall have jurisdiction in cases of application for blood-money on account of homicide or injury to a member (Diyet) where all the parties concerned are Moslems. In other cases the Civil Court shall exercise the jurisdiction, unless all the parties agree to refer the application to the Moslem Religious Court.

A Criminal Court may, if it sees fit, in any case in which a prosecution for homicide or injury to a member is brought, and at the request of a person entitled to Diyet, award any sum not exceeding £E. 250 as compensation in lieu of Diyet, and shall not be bound in making such award by the rules of the Sharia Law. The amount awarded shall be recoverable as a civil debt. Where an order has been made under this provision no further claim for Diyet shall be brought before a Moslem Religious Court.

March 1st, 1925.

HERBERT SAMUEL
High Commissioner.